

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
Case No. 20-CV-954

FARHAD AZIMA,

Plaintiff,

v.

NICHOLAS DEL ROSSO and VITAL
MANAGEMENT SERVICES, INC.,

Defendants.

**RESPONSE OF PLAINTIFF
FARHAD AZIMA TO
DEFENDANTS' MOTION TO
SEAL**

Plaintiff Farhad Azima (“Azima”) submits this brief in response and opposition to the Motion of Defendants Vital Management Services, Inc. (“Vital”) and Nicholas Del Rosso (collectively, “Defendants”) to Seal Exhibit H to Defendants’ Motion for Protective Order. *See* ECF Nos. 218, 219.

INTRODUCTION

In their Motion to Seal, Defendants contend that the redacted portions of Exhibit H involve “sensitive and confidential” information that should be treated as confidential under the protective order entered by the Court. *See* ECF No. 218 at 1-2. Azima submits that Defendants’ attempt to seal information from his deposition is instead another effort to overdesignate all information related to the facts of the case as confidential.

The protective order entered in this case requires a party to have a good faith belief that information designated as confidential “contains trade,

secrets, confidential research or development, confidential commercial information, confidential financial information, confidential health information, information treated as confidential by third parties, [or] other personal or private information whose disclosure would result in annoyance, embarrassment, oppression, or undue burden.” *See* ECF No. 101, 101-1. Many of Defendants’ confidentiality designations in the deposition in Exhibit H are facially invalid. For example:

- There are at least 50 instances for which Defendants seek confidentiality designations in which Mr. Del Rosso did not know the answer to the question asked.
- There are at least 25 instances for which Defendants seek confidentiality designations where Mr. Del Rosso’s answer was merely a denial.
- There are at least 15 instances for which Defendants seek confidentiality designations where counsel designated as confidential questions that they instructed Mr. Del Rosso not to answer. These questions, where Del Rosso was instructed to provide no information at all, do not include confidential information.
- There are six instances for which Defendants seek confidentiality designations about facts that are already public, either because they were the subject of Mr. Del Rosso’s public testimony in the UK case

or because they were subject to Defendants' publicly filed Answer (or both).

The above designations are merely some of the broad categories of information counsel for Defendants designated as confidential that are facially improper for designation. There can be no legitimate basis for designating information confidential that Del Rosso does not know, denies, was instructed not to answer, or has previously testified to publicly. Defendants' approach is both inappropriate and a significant waste of judicial resources, as it necessitates additional involvement of the Court on non-substantive matters and creates further unnecessary delay in this case. The Court should therefore deny Defendants' Motion to Seal Exhibit H.

This, the 10th day of May, 2023.

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CERTIFICATE OF WORD COUNT

The undersigned certifies compliance with Local Rule 7.3(d) regarding length limitations. This Response brief contains fewer than 6,250 words. The undersigned has relied on the word count feature of Microsoft Word 365 in making this certification.

/s/ Ripley Rand
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Counsel for Plaintiff

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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send electronic notification of this Notice to the following attorneys:

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This, the 10th day of May, 2023.

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